

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 8200

BILL NUMBER: HB 1918

DATE PREPARED: Jan 24, 1999

BILL AMENDED:

SUBJECT: Electronic gaming devices.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires the state Lottery Commission to issue licenses: (1) for certain veterans organizations and fraternal associations to conduct gambling operations with electronic gaming devices and (2) to persons that distribute these electronic gaming devices. It establishes qualifications and procedures for persons to obtain licenses. It specifies certain licensure fees. It imposes a tax on the revenue generated from electronic gaming device operations at the rate of 1% to be paid to the Department of State Revenue on a quarterly basis. It creates an Electronic Gaming Fund that consists of licensing fees and appropriates to the Lottery Commission an amount sufficient to cover expenses of administering licensing procedures.

Effective Date: July 1, 1999.

Explanation of State Expenditures: This bill provides the Lottery Commission with the power and duty to administer, regulate, and enforce electronic gambling operations and requires the Commission to adopt rules relating to this. The Commission may hire employees to carry out tasks associated with electronic gambling. This bill establishes the Electronic Gaming Fund. Money from the fund is continually appropriated to the Lottery Commission for carrying out the provisions of this article. This fund is to be administered by the Commission, with expenses for administering the fund being paid from the fund.

The Lottery Commission may conduct background investigations of each license applicant. The State Police Department is required to assist the Commission in conducting background investigations and is to be reimbursed by the Lottery Commission for costs incurred.

A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with

no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately seven months.

Explanation of State Revenues: This bill establishes a club license that allows qualified veterans organizations and fraternal associations to conduct gambling operations on electronic gaming devices. There are approximately 1,150 veterans organizations and fraternal associations in Indiana. It is not known how many of the organizations and associations would apply for a club license. This bill provides that any electronic gaming device authorized by this bill may not be placed into operation before January 1, 2000. The Lottery Commission estimated in a 1993 study that there are 10,000-15,000 video lottery machines being used illegally in the state.

The Lottery Commission is required to set the fee for a club license, but it may not exceed \$1,000 annually for a club that has one gaming device. In addition, the fee may not exceed \$1,000 annually for each additional device. Assuming the club license fee is set at \$1,000 and all of the approximately 1,150 eligible organizations license at least one gaming device, license revenue would equal approximately \$1.15 million per year. If half of the eligible organizations license five gaming devices, license revenue would equal approximately \$2.9 million per year.

This bill also establishes a distributor license, which is required for individuals or business entities to distribute, sell, or lease electronic gaming devices or associated equipment in Indiana. The Indiana Amusement and Music Operators Association estimates that there are seven distributors in Indiana. The Commission is required to set the distributor license fee, but it may not exceed \$5,000 annually. Assuming the distributor license fee is set at \$5,000 and all seven distributors apply for a license, license revenue would equal \$35,000 per year.

This bill establishes the Electronic Gaming Fund. Revenue from the license fees and penalties levied by the Commission is to be deposited in the fund. After administrative expenses are paid from the fund, the Treasurer of State shall transfer money in the fund at the end of the state fiscal year to the state General Fund.

It also establishes a 1% wagering tax on the difference between the revenue generated from gambling operations and the money paid out as winnings. The tax is to be paid quarterly to the Department of Revenue by each club licensee. Based on a 1993 study conducted by the Lottery Commission, the annual net revenue per machine is estimated to be between \$34,000 and \$39,000. Based on that estimate, a 1% wagering tax would generate between \$340 and \$390 per terminal per year. Since electronic gaming devices may not be placed into operation before January 1, 2000, no wagering tax revenue will be paid before April 2000.

This bill may increase the number of electronic gaming devices sold. An increase in the number of devices sold would increase sales tax revenue. Sales tax revenue is deposited in the state General Fund, the Property Tax Replacement Fund, and two dedicated funds. In addition, an increase in the sale of devices will increase income tax revenue from manufacturers and distributors located in Indiana. The use of electronic gaming devices by club licensees will increase the income of licensees. An increase in income will increase income tax revenue. Revenue from the corporate gross income tax, the adjusted gross income tax, and the supplemental net income tax is deposited in the state General Fund and the Property Tax Replacement Fund.

The legalization of electronic gaming devices may impact lottery ticket sales. A decrease in lottery ticket revenue would decrease the Lottery Commission's net income. Between FY 94 and FY 98, the lottery had an average net income of approximately \$180 million. Lottery revenue is distributed to the Teachers'

Retirement Fund (\$30 million per year) and the Pension Relief Fund (\$10 million per year). Remaining revenue is deposited in the Lottery and Gaming Surplus Account (LGSA) within the Build Indiana Fund (BIF). Revenue from the riverboat wagering tax, the parimutuel wagering tax, and charity gaming is also deposited in the LGSA. A statutorily-determined amount of revenue in the LGSA is transferred each year to the Motor Vehicle Excise Tax Replacement Account within the state General Fund. A portion of money remaining in the LGSA is then transferred to the State and Local Capital Projects Account.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Lottery Commission; Treasurer of State; Department of Revenue; State Police Department; Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Don Montague, Veterans and Fraternal Clubs Inc., 219/639-6329; Darrell Felling, Indiana Amusement and Music Operators Association, 812/232-5600; 1993 Lottery Commission's study on video lottery; Indiana Sheriffs Association; Department of Correction.